

MAGISTRATE JUDGE SCHENKIER

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PLAINTIFF DEMANDS TRIAL BY JURY

COUNT I

1. That on or about July 11, 2008, and at all times herein mentioned, the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, was a corporation organized and existing as a common carrier by rail in and throughout several states of the United States and for the purpose thereof did own, possess, operate and maintain divers railroad cars, tracks and other equipment in and about Will and Cook Counties, Illinois.

Page 1 of 5

commonly referred to as the Federal Employers' Liability Act (F.E.L.A.).

3. This Court has subject matter jurisdiction pursuant to Title 45 U.S.C. §56.

4. That on or about July 11, 2008, the Plaintiff, JAMES WAND, in the normal course of his duties was climbing upon a railroad car that was in service in the Defendant's Logistics Park, when he was injured in whole or in part because of the improper and unsafe condition of the grab iron on said railroad car which pulled loose from the car causing Plaintiff to fall to the ground in violation of the aforementioned SAA.

5. That as a result, in whole or in part, of the Defendant's violation of the SAA, the Plaintiff, JAMES WAND, sustained severe and permanent injuries to his back and the bones, muscles, tissues and nerves thereof resulting in disability and a loss of a normal life; that he has suffered and will continue to suffer great bodily pain and mental anguish; that he has lost and will continue to lose great sums of money and benefits which he otherwise would have earned in the pursuit of his usual occupation; that his earning capacity has been permanently impaired; and that he has spent and will continue to spend great sums of money endeavoring to be cured of his said injuries all to his damage in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

WHEREFORE, the Plaintiff, JAMES WAND, prays judgment against the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, in an amount in excess of Fifty Thousand Dollars (\$50,000.00) and costs of suit.

PLAINTIFF DEMANDS TRIAL BY JURY

COUNT II

COMES NOW the Plaintiff, JAMES WAND, by and through his attorneys, Callis, Papa, Hale, Szewczyk & Danzinger, P.C., , and for Count II of his cause of action against the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, states:

1. That on or about July 11, 2008, and at all times herein mentioned, the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, was a corporation organized and existing as a common carrier by rail in and throughout several states of the United States and for the purpose thereof did own, possess, operate and maintain divers railroad cars, tracks and other equipment in and about Will and Cook Counties, Illinois.

2. That at all times herein mentioned, the Plaintiff, JAMES WAND, was employed by the Defendant as a conductor, and was in the course and scope of his duties on the aforesaid date when he was injured, as hereinafter alleged. The Plaintiff brings this action pursuant to the authority of Title 45, §51, *et seq.*, of the United States Code, commonly referred to as the Federal Employers' Liability Act (F.E.L.A.).

3. This Court has subject matter jurisdiction pursuant to Title 45 U.S.C. §56.

4. That on or about July 11, 2008, the Plaintiff, JAMES WAND, in the normal course of his duties was climbing upon a railroad car that was in service in the Defendant's Logistics Park, when he was injured in whole or in part because of the improper and unsafe condition of the grab iron on said railroad car which pulled loose from the car causing Plaintiff to fall to the ground.

5. That the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, by and through its duly authorized agents and employees, was then and there guilty of

one or more of the following negligent acts or omissions, in violation of the Federal Employers'

Liability Act:

- (a) failed to provide a safe place to work by failing to properly maintain, inspect and repair the grab iron on said railroad car;
- (b) failed to provide a safe place to work by providing grab irons which were not securely affixed to the railroad car Plaintiff was climbing upon;
- (c) failed to provide a safe place to work by permitting a railroad car to be in service with a dangerous or defective grab iron;
- (d) failed to warn the Plaintiff and others of the above-mentioned unsafe and defective conditions;
- (e) otherwise negligently and carelessly failed to provide the Plaintiff with a reasonably safe place to work.

6. That as a result, in whole or in part, of one or more of the aforesaid violations of the Federal Employers' Liability Act, the Plaintiff, JAMES WAND, sustained severe and permanent injuries to his back and the bones, muscles, tissues and nerves thereof resulting in disability and a loss of a normal life; that he has suffered and will continue to suffer great bodily pain and mental anguish; that he has lost and will continue to lose great sums of money and benefits which he otherwise would have earned in the pursuit of his usual occupation; that his earning capacity has been permanently impaired; and that he has spent and will continue to spend great sums of money endeavoring to be cured of his said injuries all to his damage in amount in excess of Fifty Thousand Dollars (\$50,000.00).

WHEREFORE, the Plaintiff, JAMES WAND, prays judgment against the Defendant, BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY, in an amount in excess of Fifty Thousand Dollars (\$50,000.00) and costs of suit.

PLAINTIFF DEMANDS TRIAL BY JURY

CALLIS, PAPA, HALE, SZEWCZYK &
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By



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